

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CLENARD CEBRON WADE,
Petitioner,

No. C 13-4666 VC (PR)

No. C 14-2627 VC (PR)

v.

FRED FOULK, Warden,
Respondent.

ORDER ADMINISTRATIVELY
CLOSING CASES WITHOUT
PREJUDICE TO FILING MOTION
TO ADD CLAIMS IN CASE NO.
13-4636 TEH (PR)

Clenard Cebron Wade, a state prisoner proceeding pro se, filed two petitions for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the state criminal conviction and sentence he received in Contra Costa County Superior Court in case number 05-0803619. Each petition was opened as a separate case and given the above-captioned case numbers. Wade also filed an earlier petition challenging the same criminal conviction from Contra Costa County Superior Court, case number 05-0803619. The earlier-filed petition was opened as a separate case, Wade v. Foulk, case number C 13-4636 TEH (PR). Wade appears to assert different claims in each petition.

It appears Wade believes he must file a new petition for different habeas claims. That is not correct. To the contrary, all claims regarding the same conviction and sentence must be filed in the same petition. Wade may not file separate petitions challenging the same state court conviction and sentence. All his claims regarding his state conviction must be included in one

petition, and they must be included in the one that he filed first, which is case number C 13-4636 TEH (PR).

Therefore, case numbers C 13-4666 VC (PR) and C 14-2627 VC (PR) are administratively closed without prejudice. Wade may, but is not required to, bring a motion to amend his petition in case number C 13-4636 TEH (PR) to add claims that he included in the two later petitions. Any pending motions in the cases that are administratively closed are denied without prejudice to re-filing in case number C 13-4636 TEH (PR), should the need arise.

CONCLUSION

Based on the foregoing, the Court orders as follows:

1. Case numbers C 13-4666 VC (PR) and C 14-2627 VC (PR) are administratively closed without prejudice to Wade bringing a motion to amend in case number C 13-4636 TEH (PR).
2. Because these cases were filed in error, the Clerk of the Court shall not charge a filing fee for them.
3. The Clerk of the Court shall terminate all pending motions and close the files.

IT IS SO ORDERED.

Dated: June 17, 2014



VINCE CHHABRIA
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CLENARD C. WADE,
Plaintiff,

v.

FRED FOULK, et al.,
Defendants.

Case No. [13-cv-04666-VC](#)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 6/17/2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Clenard C. Wade
High Desert State Prison A2-113 Upper
P.O. Box 3030
Susanville, CA 96127

Dated: 6/17/2014

Richard W. Wieking
Clerk, United States District Court



By: _____
Kristen Melen, Deputy Clerk to the
Honorable VINCE CHHABRIA

United States District Court
Northern District of California